## REMARKS

In view of the following remarks responsive to the Office Action dated July 28, 2008, Applicant respectfully requests favorable reconsideration of this application.

Claims 1, 3, 9-11, 19, and 20 were pending in this application. Applicant offers no amendments in this response. Therefore, the same claims remain pending.

The Office has rejected all pending claims under 35 USC 103(a) as been unpatentable over Intermediate Accounting in view of Owens and further in view of O'Brien.

Applicant respectfully traverses.

Applicant had previously argued five distinctions of the present claims over the prior art of record. Those distinctions were: (1) that the average values of the models are determined as of the date the purchasing entity first purchased an asset of that model type (independent claims 1 and 9), (2) that the assets are computer hardware and/or software (independent claims 1 and 9), (3) that, in calculating the average value of certain models of the machine type, the weighting is a function of predicted purchasing trends of models of that machine type (independent claims 1 and 9), (4) that the value of the models used in the calculations are derived from the manufacturer's based manufacturing cost for said model (independent claims 1 and 9), and (5) that the instructions for weighting weights said value of each model as a function of relative volume of purchasing by said entity of said models (dependent claims 19 and 20).

These recitations distinguish over the prior art of record.

Turning to the first distinction, the Office asserts that O'Brien teaches determining the value of the models (paragraph 37; paragraphs 160-162; paragraphs 166-167), as of the date an asset of said machine type was first purchased by said entity (the date of acquisition purchase; paragraph 37).

Applicant respectfully traverses. Paragraph 37 of O'Brien discloses nothing more than that the record of the asset includes information disclosing the date of acquisition of the assets. There are at5 least two flaws in the Office's reading of O'Brien and/or the present claim language. First, the mere disclosure that the record of the asset discloses its date of purchase hardly constitutes a teaching about what that date is used for, and certainly does not teach that it is used for determining an average value of the models as of that date. Secondly, the Office appears to be misunderstanding the actual claim language in any event. Specifically, even if paragraph 37 did teach calculating the value of the models as of the date of purchase of each individual asset, it would be completely contrary to what is actually claimed. Particularly, this claim language does not claim determining the value of the models as of the date that the asset was purchased. It claims something quite different. It claims determining the average value of the model as of a date that any asset of said machine type was first purchased by the entity. Thus, if the entity first purchased an asset of a particular machine type on January 1 2000 and, then, purchased a second asset of the same type on March 22, 2004, the average value of an asset of that machine type will be determined as of January 1, 2000, not the actual purchase date of the second asset. This is quite different (and, in fact, inconsistent) with what the Office asserts is taught in paragraph

37 O'Brien (which, as noted above, is not even what paragraph 37 teaches in any event).

Accordingly, independent claims 1 and 9 patentably distinguish over the prior art of record.

With respect to the second above-noted distinction, the Office asserts that O'Brien teaches in paragraph 3 that the assets may be computers.

Applicant does not choose to argue this point at this time.

With respect to the third above-noted distinction, the Office asserts that Intermediate Accounting discloses on pages 505 and 519 - 520 weighting said value of each model as a function of the purchasing trends of models of machine types for purposes of said average calculation.

Applicant respectfully traverses. Other than mentioning the concept of "weighting, these portions of Intermediate Accounting are entirely irrelevant. For instance, the portion of page 505 referred to by the Office pertains to capitalization of <u>interest</u> and states "In computing the weighted-average accumulated expenditures, the construction expenditures are weighted by the amount of time (fraction of a year or accounting period) that interest costs could be incurred on the expenditure".

There is no mention of weighting as a function of purchasing trends. Nor is there any mention of using the weighted-average accumulated expenditures to determine the value of anything, let alone the average value of anything.

With respect to pages 519-520 and particularly the Improvements and Replacements section upon which the Office relies, Applicant has reviewed this section

and finds nothing remotely relevant to the claimed subject matter (i.e., weighting the value of each model as a function of predicted purchasing trends in determining the average value for the model). Rather, this section of Intermediate Accounting concerns different accounting practices depending on whether an asset is considered an improvement or a replacement. There is no discussion of weighing at all. There is no discussion of determining the average value of anything. There is no discussion of purchasing trends. There is a discussion of machine types. This portion of Intermediate Accounting is irrelevant to the claimed subject matter.

Accordingly, independent claims 1 and 9 even further patentably distinguish over the prior art of record based on this recitation.

With respect to the fourth distinction noted above, the Office asserts that the list price discussed on page 513 of Intermediate Accounting discloses that the average value of the models is derived from the manufacturer's base manufacturing cost.

Applicant respectfully traverses. This portion of Intermediate Accounting has nothing to do with determining the average value of anything. Furthermore, list price is something quite different than manufacturer's base manufacturing cost in any event. The cited portion of Intermediate Accounting simply has nothing whatsoever to do with the subject matter of this claim recitation. Particularly, the cited portion of Intermediate Accounting simply discloses an example of determining the cost of a purchased machine. Particularly, this portion of Intermediate Accounting discloses an example in which the purchaser trades in an old machine as part of a purchase of a new machine. In the example, the list price of the new machine is $16,000 and the fair market value of

the trade-in machine is $6,000, but the purchaser and seller agree that the trade-in allowance for the trade-in machine will be in $9,000. Accordingly, the purchaser trades in the old machine and pays $7,000. The text explains that, since the fair market value of the trade-in is actually $6,000, and not $9,000, the true cost of the new machine is actually $13,000, and not the list price of $16,000. Thus, not only does the list price of the new machine have nothing to do with the manufacturer's base manufacturing cost of the machine, the list price discussed here has nothing to do with the derivation of an average value of the models as claimed.

For all intents and purposes, the only relevance of this portion of Intermediate Accounting to the subject claim recitation is that it discloses that the new machine has a list price. Applicant does not dispute that machines have list prices. In fact, even in the absence of a reference teaching it, Applicant does not dispute that, in fact, machines also have base manufacturing costs (i.e., it certainly cost something to make the machine). However, none of this contains any suggestion whatsoever as to how to calculate the average cost of assets of a particular model type, let alone using the manufacturer's based manufacturing costs to do so. The reference actually mentions a completely different price point, the list price.

Accordingly, independent claims 1 and 9 even further patentably distinguish over the prior art of record based on this recitation.

Finally, with respect to the fifth above-noted patentable distinction found in dependent claims 19 and 20, the Office asserts that Intermediate Accounting discloses

on pages 505 and 519-520 weighting the value of each model as a function of relative volume of purchasing by the entity of said models.

Applicant respectfully traverses. First, it is noted that the Office cited the exact same portion of Intermediate Accounting for teaching this feature (i.e., weighting as a function of relative volume of purchasing by said entity of said models) as was cited for teaching weighting as a function of predicted purchasing trends (as claimed in claim 1).

As discussed above with respect to weighting based on purchasing trends as recited in claim 1, this portion of Intermediate Accounting simply does not teach weighting based on either purchasing trends or relative volume of purchasing. Rather, page 505 pertains to capitalization of <u>interest</u> and states "in computing the weighted-average accumulated expenditures, the construction expenditures are weighted by the amount of time (fraction of a year or accounting period) that interest costs could be incurred on the expenditure", which has nothing to do with weighting as a function of purchasing trends nor using any weighted-average to determine the average value of anything. Furthermore, pages 519-520 concern different accounting practices depending on whether an asset is considered an improvement or a replacement. There is no discussion at all of (1) weighting, (2) determining the average value of anything, (3) purchasing trends, or (4) machine types. This portion of Intermediate Accounting is simply irrelevant to the claimed subject matter.

Accordingly, dependent claims 19 and 20 even further patentably distinguish over the prior art of record.

**Conclusion**

In view of the foregoing remarks, this application is now in condition for allowance. Applicant respectfully requests the Office to issue a Notice of Allowance at the earliest possible date. The Examiner is invited to contact Applicant's undersigned counsel by telephone call in order to further the prosecution of this case in any way.

Respectfully submitted,

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